



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/491,429	01/26/2000	John F. Heanue	A-68918/ENB	8521

7590 03/31/2003  
DORSEY & WHITNEY LLP  
Four Embarcadero Center  
Suite 3400  
San Francisco, CA 94111

EXAMINER

RODRIGUEZ, ARMANDO

ART UNIT PAPER NUMBER

2828

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/491,429

Applicant(s)

HEANUE ET AL.

Examiner

Armando Rodriguez

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.



PAUL IP

SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see Response paper # 19, filed on February 24, 2003, with respect to claims 13-15 have been fully considered and are persuasive. The Final Rejection of claims 1-20 has been withdrawn and a Non-Final Rejection has been issued regarding claims 1-20.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leckel et al (PN 6,404,798) in view of Dhuler et al (PN 6,428,173).

Regarding claims 1-12 and 16-20,

Leckel et al illustrates in figure 2 a laser system used in optical communications network where the laser system having a source (10) which is in a Fabry-Perot arrangement by having reflective surfaces (20) and (30), a diffraction grating (70) and a mirror (270) where the grating and the mirror are in a Littman configuration for redirecting the beam back towards the grating, such configuration is well-known in the art. The mirror provides wavelength tuning as shown by the arrows in figure 2 and disclosed in column 5.

Leckel et al does not disclose a micro actuator for providing movement to the mirror to obtain a tunable laser.

Dhuler et al discloses in the abstract of microelectromechanical structures (MEMS) are used for controlling the movements of mirrors. Dhuler et al also discloses that such technology (MEMS) can be used in applications involving the controlled redirection of electromagnetic radiation.

Therefore, it would have been obvious at the time the invention was made to combine the moveable microelectromechanical mirror of Dhuler et al with the laser system of Leckel et al because it would provide movement to the mirror of Leckel et al for controlling the retro reflected beam and obtaining a tunable laser.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leckel et al (PN 6,404,798) in view of Dhuler et al (PN 6,428,173) as applied to claims 1 and 16 above, and further in view of Jerman et al.

Leckel et al and Dhuler et al do not disclose a micro actuator having a substrate and at least one rotary comb.

Jerman et al in the abstract discloses an electrostatic micro actuator having a substrate and a rotary comb, where in column 7 an exemplary operation of the actuator is disclosed as providing movement for a mirror and deflecting a laser beam.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute the micro actuator of Dhuler et al with the micro actuator of Jerman et al because both actuator will provide movement to a mirror for deflecting a laser beam.


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Armando Rodriguez whose telephone number is (703) 308-6218. The examiner can normally be reached on 10-hour day / M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7721 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-4881.

  
Armando Rodriguez  
Examiner  
Art Unit 2828

  
Paul Ip  
Supervisor  
Art Unit 2828

AR/PI  
March 25, 2003